

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Proposed Policies Governing
Restructuring California's Electric Services
Industry and Reforming Regulation.

Rulemaking 94-04-031
(Filed April 20, 1994)

Order Instituting Investigation on the
Commission's Proposed Policies Governing
Restructuring California's Electric Services
Industry and Reforming Regulation.

Investigation 94-04-032
(Filed April 20, 1994)

**ADMINISTRATIVE LAW JUDGE'S RULING
REQUESTING COMMENTS ON CLOSING THESE PROCEEDINGS**

Summary

The Commission initiated this rulemaking and investigation in 1994 to consider restructuring California's electric services industry and to provide customers with direct access to the competitive market for generation services. The past two years have been a time of unprecedented crisis in the electric services industry, and I believe that the issues raised in these proceedings are now either moot or are being addressed elsewhere. Therefore, I ask parties to file comments that address the need to continue with these proceedings.

Background

Shortly after Decision (D.) 95-12-063, as modified by D.96-01-009 was adopted by the Commission, the Legislature provided for the restructuring of the electric industry by enacting Assembly Bill (AB) 1890. As originally envisioned,

AB 1890 provided for an “orderly” transition to an entirely competitive generation market which would be completed by March 2002 at the latest. (Pub. Util. Code § 330.)¹ Part of the AB 1890 framework was a rate freeze that was to remain in effect during the period the utilities were transitioning to competitive generation. AB 1890 also provided an opportunity, but not a guarantee, for the utilities to recover transition costs, which were investments that were expected would become unrecoverable in a competitive generation market, during the transition period. (Sections 330, 367, 368.)

After a period of extreme escalation in wholesale prices, which began in 2000, it became apparent that California’s transition to electricity deregulation was not working. In late 2000, the Legislature responded by enacting Assembly Bills No. 1 and No. 6 from the First Extraordinary Legislative Session (AB 1X and AB 6X).

AB 1X authorized the California Department of Water Resources (DWR) to purchase power on behalf of the end use customers in the service territories of the three major California electric utilities, as well as municipal utilities, and also authorized the Commission to allocate a portion of the costs incurred by DWR in purchasing power pursuant to AB 1X. (See California Water Code § 80100 et seq.) AB 6X prohibited divestiture of any “facility for the generation of electricity owned by a public utility” prior to January 1, 2006 and stated that “[t]he Commission shall ensure that public utility generation assets remain dedicated to service for the benefit of California ratepayers.” AB 6X also amended Public Utilities Code Section 377 (one of the original provisions of

¹ Except as otherwise indicated, all further statutory references are to the Public Utilities Code.

AB 1890) to explicitly delete any reference to the market valuation of the utilities' generation assets, which had been an essential step in the calculation of the utilities' uneconomic costs. (Section 367 (b).) The effect of these amendments was a return to more traditional rate regulation for the electric utilities' generation assets.

Current Proceedings

Issues related to procurement are now being addressed in R.01-10-024. The Commission recently issued D.02-08-071 authorizing Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (Edison) to enter into transitional procurement contracts using DWR's credit. The Commission is also considering the allocation of DWR's contracts (in terms of megawatts assigned to each utility) in the Procurement Rulemaking, and a proposed decision is targeted for consideration at the September 19 business meeting. The Commission will also consider the final utility procurement plans well before the end of the year.

D.01-09-060 suspended the right of customers to acquire direct access service after September 20, 2001. Issues related to the cost responsibility of direct access and departing load customers, including bond charges and other items are being considered in R.02-01-011. I propose that any remaining direct access issues that were being addressed in R.94-04-031 should now be addressed in R.02-01-011.

Application 00-11-038 et al. is addressing numerous issues. D.02-01-001 requires that the Commission reconsider certain aspects of D.01-03-082 , including a relook at the end of the rate freeze and matters related to transition cost recovery. This docket also serves as the procedural vehicle for considering

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the revenue requirements associated with DWR's bond charges and power charges. In addition, the Commission issued D.02-04-016 in these proceedings,

which adopted a revenue requirement for utility retained generation and preliminarily adopted a rate base for PG&E, Edison, and SDG&E. Additional matters related to generation revenue requirements will be considered in the utilities' general rate case or cost of service filings.

Matters related to advanced metering and demand responsiveness are being considered in R.02-06-001. This rulemaking was initiated in order to address policies designed to develop demand flexibility as a resource to enhance electric system reliability, reduce power purchases and individual consumer costs, and protect the environment. (OIR 02-06-001, mimeo., p. 1.) R.02-06-001 took note of the California Consumer Empowerment Alliance (CCEA) petition to modify D.97-05-039 and consolidated the petition into the demand response rulemaking. However, closing the restructuring docket should not be a problem, since R.02-06-001 states that "[t]he petition of [CCEA] to modify D.97-05-039 is moved from consideration in R.94-04-031/I.94-04-032 to this proceeding." (Ordering Paragraph 3, page 16.)

Matters related to energy efficiency and low-income programs are also being addressed in separate dockets. R.01-08-027 is the forum for our consideration of policy and implementation issues associated with low-income assistance programs, i.e., the California Alternate Rates For Energy (CARE) and Low-Income Energy Efficiency (LIEE) programs. These issues include: monitoring program accomplishments under the rapid deployment approach adopted in D.01-05-033, allocating program funds appropriated by the Legislature among utilities, and refining policies, program designs and budgets for future program years.

R.01-08-028 is designed to examine, in a comprehensive fashion, the Commission's future energy efficiency policies, administration and programs.

This rulemaking works with utilities and non-utilities to adopt energy efficiency programs for 2002 and beyond, and will consider, in the longer term, the appropriate administrator(s) of Commission-ordered energy efficiency programs.

Finally, matters related to load control and distributed generation pursuant to AB 970 are being addressed in R.98-07-037. Other matters related to distributed generation are being considered in R.99-10-025.

Events have overtaken much of the impetus for R.94-04-031/I.94-04-032. In addition, many of the matters once being considered in R.94-04-031/I.94-04-032 are now being addressed in other proceedings. Thus, I believe that the electric restructuring rulemaking and investigation should be closed. Parties may file comments that address the need to continue with these proceedings. If parties believe that these proceedings should remain open, they should provide specific details on issues that remain to be considered. Comments are due on October 16, 2002 and reply comments are due on October 29, 2002.

IT IS RULED that:

1. Parties may file and serve comments that address the need to continue with these proceedings. If parties believe that these proceedings should remain open, they should provide specific details on issues that remain to be considered.
2. Comments are due on October 16, 2002 and reply comments are due on October 29, 2002.

Dated October 2, 2002, at San Francisco, California.

/s/ ANGELA K. MINKIN

Angela K. Minkin

Assistant Chief

Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Requesting Comments on Closing These Proceedings on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail.

Dated October 2, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.